

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

THE UNITED STATES OF AMERICA

Plaintiff

V.

CASE NO. 7-18-CV-303

26.000 ACRES OF LAND, MORE OR LESS, SITUATE IN HIDALGO COUNTY, STATE OF TEXAS; AND THE PHARR ORATORY OF ST. PHILIP NERI OF PONTIFICAL RITE, A TEXAS NON PROFIT CORPORATION,

### *Defendants*

**DEFENDANT PHARR ORATORY OF ST. PHILIP NERI OF PONTIFICAL RITE**  
**RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR ORDER OF**  
**IMMEDIATE POSSESSION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DEFENDANT **THE PHARR ORATORY OF ST. PHILIP NERI OF PONTIFICAL RITE** (hereinafter at times referred to as “Defendant”) and files this response in opposition to the Plaintiff’s motion for order of immediate possession and would respectfully show the Court as follows:

1. Defendant filed its original answer on October 23, 2018 setting out numerous detailed objections and defenses to the proposed taking of the property. Included among the objections and defenses were raising the First Amendment of the United States Constitution would affect the Defendant's free exercise of its religion.
2. This Honorable Court has set an initial conference in the case for December 5, 2018.

3. The affidavit attached to the motion for order of immediate possession does not adequately and fully set out why immediate possession is necessary. In fact, in Section 4, references are made to doing various studies which as the Plaintiff knows have already been waived by an entry in the Federal Register on October 11, 2018.
4. The affidavit does not say how long the survey contracts have been awarded for. Moreover, the request for the order of immediate possession requests a twelve month period. The Court could probably take judicial knowledge of the fact that to go on and perform a survey of the corners of the property and the specific property the Government proposes to take could probably be accomplished in one or two days at the most. And therefore, not issuing an order at this time will not delay the Plaintiff at all in its efforts.
5. Defendant would show that the temporary right of possession would not be minimally intrusive but would in fact greatly intrude upon the Defendant's property and First Amendment Right of freedom of religion.
6. The Defendant again reiterates its objection to the amount of just compensation as being very inadequate. But the real basis of Defendant's complaint is all the other objections and defenses relied upon in its answer.

WHEREFORE PREMISES CONSIDERED, Defendant The Pharr Oratory of St. Philip Neri of Pontifical Rite requests the following:

1. An order be entered denying Plaintiff's motion for order of immediate possession;
2. That such a motion not be considered until at least on or after the initial conference already set for December 5, 2018;

3. That the Court consider all the Defendant's objections and defenses in deciding whether to issue such an order for immediate possession;
4. In the alternative, that if the Court was inclined to grant an order for immediate possession that reasonable restrictions be placed on the Plaintiff as to when it may enter the property and prior notices that it must give to the Defendant prior to entering on to the property; and
5. That the Court grant the Defendant such other and further relief as the Court deems proper.

Respectfully submitted,  
**THE PHARR ORATORY OF ST. PHILIP  
NERI OF PONTIFICAL RITE**

By: /s/ David C. Garza  
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**ATTORNEY FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 20, 2018, I electronically filed the foregoing original answer by Defendant with the Clerk of the Court using the CM/ECF system which will send notification to all counsel of record and that I emailed a copy to the following:

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*/s/ David C. Garza*  
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